

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

ORDER NO. 2000-82
ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
AGAINST
THE COUNTY OF SAN DIEGO
SAN MARCOS LANDFILL

The San Diego Regional Water Quality Control Board (hereafter SDRWQCB), having held a public hearing on 10 May 2000 to hear evidence and comments on the allegations contained in Complaint No. 2000-49, dated 13 March 2000, and on the recommendation for administrative assessment of Civil Liability in the amount of \$284,700 finds as follows:

1. Cease and Desist Order (CDO) No. 98-39, Directive 3.c. requires the County of San Diego (County) to ensure that “[t]he landfill cover shall not be less than 24” thick.” The order was adopted on 13 May 1998. Directive 3.f. of the order required the submittal of a quarterly progress report to the SDRWQCB on 31 January 1999.
2. The County of San Diego failed to use reasonable care to provide/ensure the provision of at least 24 inches of cover over the entire top deck of the San Marcos Landfill. The County’s violation of Directive 3.c. of CDO No. 98-39 has been continuous for a total of 671 days from 13 May 1998 to 13 March 2000.
3. The County of San Diego failed to use reasonable care to submit the 31 January 1999 quarterly progress report to the SDRWQCB in a timely manner, and failed to take reasonable steps to correct the failure; submittal of routine monitoring reports required by the Local Enforcement Agency (County of San Diego, Department of Environmental Health) does not constitute substantial compliance with the specific requirements for the quarterly progress report. The County’s violation of Directive 3.f. of CDO No. 98-39 has been continuous for a total of 407 days from 1 February 1999 to 13 March 2000.
4. Waste Discharge Requirements Order No. 92-02, Reporting Requirement E.11, as amended by State Water Resources Control Board Order No. WQ 93-08 requires the County of San Diego to immediately notify the SDRWQCB of any “change in site conditions which could impair the integrity of waste or leachate containment facilities or of precipitation and drainage control structures.” Reporting Requirement E.7 of Order No. 92-02 requires the County to report “any noncompliance which may endanger health or the environment, such as...a failure which threatens the integrity of the containment features of the landfill....Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the discharger becomes aware of the circumstances. A written submission shall also be provided within five days of the time the discharger becomes aware of the circumstances.”

5. The County of San Diego failed to use reasonable care to immediately notify or report in writing within five days the SDRWQCB of the formation of the north slope shear crack. The shear crack was formed on or about 29 June 1999. The County's violation of its obligation to report as required by Order No. 92-02, Reporting Requirement E.7 and Reporting Requirement E.11 each occurred for one day for a total of two days of violation.
6. Consideration of the factors prescribed in California Water Code § 13327 and 13351 based upon information available to the SDRWQCB prior to the hearing and described in greater detail in *California Regional Water Quality Control Board, San Diego Region, Staff Report On the Proposed Administrative Civil Liability Contained in Complaint No. 2000-49 Against the County of San Diego for Noncompliance with Order No. 92-02, and Cease and Desist Order No. 98-39, San Marcos Landfill, 13 March 2000* supports assessment of civil liability in the amount of \$284,700 as follows:
 - \$300 per day for 671 days in violation of CDO No. 98-39, Directive 3.c;
 - \$200 per day for 407 days in violation of CDO No. 98-39, Directive 3.f;
 - \$1,000 per day for one day in violation of Order No. 92-02, Reporting Requirement E.7; and
 - \$1,000 per day for one day in violation of Order No. 92-02, Reporting Requirement E.11.

In addition, consideration of testimony and commentary presented at the hearing supports an increase in the assessment for the County's failure to submit the missing quarterly progress report from \$200 to \$250 per day because it is essential under the self-reporting framework that reports be properly filed as required and the County has yet to file the report. Liability for this violation is \$101,750 and total civil liability for all four violations is \$305,050.

7. This enforcement action is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Division 13, Chapter 3, Section 21000 et seq.) in accordance with Section 13389 of the California Water Code.

IT IS HEREBY ORDERED that civil liability is imposed on the County of San Diego in the amount of three hundred five thousand and fifty dollars (\$305,050) and that the rationale for the assessment contained in *California Regional Water Quality Control Board, San Diego Region, Staff Report On the Proposed Administrative Civil Liability Contained in Complaint No. 2000-49 Against the County of San Diego for Noncompliance with Order No. 92-02, and Cease and Desist Order No. 98-39, San Marcos Landfill, 13 March 2000* is hereby incorporated into this order.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on 10 May 2000.

/s/

JOHN H. ROBERTUS
Executive Officer